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Air and Radiation Docket and Information Center
Environmental Protection Agency
Mailcode: 2822T
1200 Pennsylvania Ave., NW.
Washington, DC 20460

RE: Docket ID No. EPA-HQ-OAR-2006-0790
Comments on *National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers*

To Whom It May Concern:

With this submittal, The National Telecommunications Safety Panel is providing the United States Environmental Protection Agency (EPA) with comments on the proposed National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers (proposed Boiler NESHAP), as published in the *Federal Register* on June 4, 2010 (Volume 75, Number 107).

The National Telecommunications Safety Panel (NTSP) is a consortium of telecommunications environmental, health and safety professionals dedicated to promoting employee safety and health, preventing accidents and promoting environmental responsibility throughout the telecommunications industry. The NTSP strives to provide constructive input in the development and promulgation of environmental, health and safety standards and guidelines that affect the varied businesses within the telecommunications industry. As such, the panel maintains an active advocacy role, providing comments and recommendations to federal and state agencies where issues concern the Telecommunications industry. The comments submitted herein are from the NTSP and do not supersede comments filed by individual companies which may have filed different and/or additional comments.

NTSP member companies own and operate boilers for the purpose of providing hot water and comfort heating. Our boilers are not operated to support industrial or commercial processes.

While NTSP supports EPA's efforts to address emissions from area sources, we do have several significant concerns with both the data underlying the proposed rulemaking and the regulatory options that are proposed. In this regard, we submit the following specific comments.

1. EPA lacks sufficient data to support this rulemaking

NTSP is concerned that EPA has insufficient data to support its proposal. Indeed, EPA indicates that it has no emission data for polycyclic organic matter ("POM" and limited emission data for mercury and carbon monoxide (CO) from area source boilers.¹ In addition, there is limited information available to EPA through state permitting actions regarding such boilers. From NTSP's review of the MACT floor analysis contained in the proposed rule, it appears that in formulating its regulatory standards, EPA has relied on mercury emission data for only 2 coal-fired boilers and CO emission data for only 5 such boilers; for biomass-fired boilers, EPA indicated no state data was available and that the only emission data available to EPA was from a program

¹ *Id.* at 31, 905.

to promote the burning of woody biomass in schools; and for oil-fired area source boilers, EPA indicated that CO emission data was available for 68 boilers as part of the Boiler MACT Information Collection Request.

Based on such a limited data set, EPA is nonetheless proceeding to propose regulatory standards affecting an estimated 183,00 existing units at 91,300 area source facilities. In addition to proposing daily and monthly emission limits applicable to larger area sources, EPA is also making several determinations with regard to what controls are appropriate and available for all new coal, biomass and oil-fired units (regardless of size), what limits should apply to sources during periods of start-up, shutdown and malfunction, what monitoring requirements are applicable and how compliance must be demonstrated. Given the full range of regulatory determinations that EPA is making within the Area Source Boiler Rule, we believe that a more prudent course would be for the Agency to take sufficient time to gather relevant data. EPA must have sufficient data to underpin its final rulemaking; without such, Agency decisions on final requirements may be arbitrary and capricious.

2. EPA should create a *de minimis* exception

In the proposed rule, EPA has chosen not to list natural gas-fired area source boilers since regulation of such boilers is not necessary to meet the 90 percent standard required under Clean Air Act (“CAA”) § 112(c)(3).² NTSP requests that EPA use a similar rationale to not list area source boilers below certain *de minimis* thresholds.

Given the vast differentials in size and in the utilization of small boilers, EPA should use its available CAA authority to create a *de minimis* exception based on size (e.g., 1 MMBtu/hr heat input), utilization (e.g., differentiating between boilers that are run nearly continuously and those that are used on a seasonal or sporadic basis), or other objective parameters. Rather than combine area sources of varying degrees of size and utilization within the “one size fits all” requirements related to area source below 10 MMBtu/hr heat input, EPA should instead establish a *de minimis* heat input level below which area sources are not subject to regulation. Throughout the proposed rule, EPA has recognized that different-sized boilers should be treated differently. Boilers over 100 MMBtu/hr are required continuously to monitor CO and maintain CO emissions below the daily limits. Boilers over 10 MMBtu/Hr are required to meet varying emission standards based on fuel type. Boilers below 10 MMBTU/hr are subject only to requirements for boiler tune-ups. Therefore, EPA correctly realizes that different types of boilers have different emission characteristics that “influence the feasibility and effectiveness of emission control.”³ EPA should carry this logic to its natural conclusion: below a certain level, or for certain conditions⁴ affecting the use of a boiler, controlling emissions from area sources is not productive and not required under the CAA.

In fact, EPA has already proposed such an approach in its proposed National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and

² *Id.* at 31,900

³ *Id.* at 31,904

⁴ Seasonal comfort heating and hot water demand for personal use

Institutional Boilers and Process Heaters.⁵ In that proposal, EPA decided to exempt hot water heaters from regulation. Although EPA recognized that, “hot water heaters, by their design and operation, could be considered boilers since hot water heaters meet the definition of a boiler as specified in the proposed rule . . . [they] are more appropriately described as residential-type boilers, not industrial, commercial, or institutional boilers because their output (*i.e.*, hot water) is intended for personal use rather than for use in an industrial, commercial, or institutional process.” In addition, EPA considered that, “their emissions are negligible compared to the emissions from the industrial operations that make such facilities major sources, and compared to boilers that are used for industrial, commercial, or institutional purposes.”⁶ Thus, EPA has recognized that both the utilization of boilers and their relative size/emission profile can serve as justification for excluding such units from regulation. NTSP requests that similar consideration be given within this rule to creating a *de minimis* exception based on such factors.

3. EPA should include 10 MMBtu size cutoff for new boilers

EPA is proposing to subject existing coal, biomass, and oil-fueled boilers with MMBtu heat input capacity at or above 10 million Btu/Hr to specific emission standards (e.g., 0.03 lb per MMBtu of heat input for particulate matter). While EPA is proposing that existing coal, biomass and oil-fueled boilers below 10 MMBtu/Hr be subject to work practice standards under CAA section 112 (h), EPA is proposing that *all new boilers*, no matter what size, fuel type or utilization be subject to the same emission standards as existing boilers above 10 MMBtu/Hr. This disparate treatment is at odds with EPA’s rationale for the 10 MMBtu/hr size cutoff for emission standards – as well as at variance with the real world utilization of small boilers.

In assessing the 10 MMBtu/hr size cutoff for emission standards for existing boilers, EPA analyzed total compliance costs of the standards relative to average firm revenues of the facilities. EPA determined that costs for testing and monitoring would have a significant adverse economic impact on the facilities. EPA also determined that technological options for controlling emissions from area source boilers (e.g., multiclones, fabric filters) were not available or achievable for certain boilers and that standard methods for measuring emissions of mercury “are not applicable for sampling small diameter stacks.”⁷ EPA, however, indicated that new facilities have “added flexibility of including compliance costs into their design and planning as well as “the option of fuel selection in minimizing their compliance costs.”⁸

In such assessments, EPA has made an overly broad conclusion both as to the availability and feasibility of control technology and the accessibility of fuels. It is simply not true that any company or facility has a free choice as to how to fuel its boilers in all areas. The availability of natural gas is constrained by location as well as the feasibility of using other fuels. That control technology may be supportable for relatively large area sources moreover does not establish that the same technology can be applied to

⁵ 75 Fed. Reg. 32,006 (June 4, 2010)

⁶ *Id.* at 32, 016.

⁷ 75 Fed. Reg. 32,906

⁸ *Id.* at 32,909.



relatively small area sources. Data compiled for this rulemaking and the MACT floor methodology simply cannot support a broad conclusion that *all* new facilities are somehow able to comply with standards that are not feasible or available for all existing facilities.

4. EPA should adjust requirements for on-site retention of records.

EPA is proposing to require that each record be kept “onsite for at least 2 years after the date of each recorded action . . .”⁹ Given the scope of requirements for this rulemaking, and especially the additional requirements that apply to new versus existing units, NTSP believes that this requirement is problematic at best. Many facilities that contain area source boilers subject to this proposed rule are unmanned or located in remote areas. If supporting a telecommunications infrastructure, such facilities may also be widely spaced. It is therefore unlikely, from an enforcement perspective that EPA or state authorities would seek to visit such facilities simply for the purpose of obtaining required records when a more efficient alternative could exist to obtain such records from a centralized office or business address. We recommend that EPA recognize this fact and modify the proposal to allow records to be maintained on- or off-site provided they can be made readily available to EPA.

In fact, EPA does not require on-site recordkeeping in other, similar contexts. For example, final regulations for National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines require that records be “readily accessible” without reference to specific location.¹⁰ EPA could adopt similar regulatory language with regard to the recordkeeping requirements for area source boilers.

5. EPA should adjust recordkeeping and the associated reporting requirements

EPA is proposing to require “Records documenting monthly fuel use by each boiler, including the type(s) of fuel, including, but not limited to, a description of the fuel, including whether the fuel has received a non-waste determination by you or EPA, and the total fuel usage amount with units of measure.”¹¹ Small oil fired boilers at area sources are typically not be equipped with individual fuel meters and may share a common fuel source with a variety of equipment – engines and boilers. For oil-fired boilers that are not configured to combust biomass or coal, compliance with requirements to maintain records associated with individual unit monthly fuel consumption would be unnecessarily burdensome and provide no additional assurances of compliance or reduction of HAPs. We recommend that EPA recognize this and modify the proposal to eliminate the fuel consumption information and retain the

⁹ See Subpart JJJJJ, 63.11224(d), 75 Fed. Reg. at 31,930.

¹⁰ Section 63.6660 provides that, “(c) You must keep each record readily accessible in hard copy or electronic form for at least 5 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1).”

¹¹ See Subpart JJJJJ, 63.11224(c)(2)(ii), 75 Fed. Reg. at 31930.



requirement to document fuel type and description. Documentation of fuel type could be supported by purchase receipts.

6. EPA should correct the timeframe inconsistencies within § 63.11222

Per §63.11222(b)(6), if requested by the Administrator, an annual report is required detailing measurements associated with boiler adjustment, however the boiler tune-up requirement in §63.11222(b) is a biennial requirement. EPA should adjust the report frequency to match the frequency of the biennial tune-up requirement.

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The National Telecommunications Safety Panel wishes to thank EPA for the opportunity to comment on the proposed RICE NESHAP. If you have any questions about the information included in these comments or we may be of further assistance in this matter, please feel free to contact me.

Sincerely,

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